



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 4382-00
16 November 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 16 February 1983 for four years at age 20. The record reflects that you were advanced to SN (E-3) and served without incident until 31 July 1984 when you were convicted by civil authorities of possession of marijuana and drinking in public. You were fined \$10 and assessed \$20 in court costs. During the 12 month period from August 1984 to August 1985 you received five nonjudicial punishments for disobedience of an order, three instances of use of marijuana or a controlled substance, possession of marijuana, and a four day period of unauthorized absence (UA). During this period you were also counseled regarding your use of marijuana and warned that further misconduct could result in administrative separation under other than honorable conditions.

On 23 August 1985, the counseling and assistance center recommended that you be referred to an alcohol rehabilitation center for treatment. However, on 20 October 1985, you were notified that you were being considered for discharge under other

than honorable conditions by reason of misconduct due to drug abuse. You were advised of your procedural rights, declined to consult with legal counsel and waived your right to an administrative discharge board (ADB). Thereafter, the commanding officer recommended discharge by reason of misconduct. He noted that despite your above average performance, you had demonstrated an inability to conform to Navy standards of conduct regarding drug usage. On 9 November 1985, the Chief of Naval Personnel directed discharge under other than honorable conditions by reason of misconduct due to drug abuse. On 18 November 1985 you elected treatment at a Veterans Administration hospital nearest your home prior to discharge. You were discharged under other than honorable conditions on 13 March 1986.

In its review of your application the Board conducted a careful search of your service records for any mitigating factors which might warrant recharacterization of your discharge under other than honorable conditions. However, no justification for such a change could be found. The Board noted that at age 20 you were older than the average recruit and a high school graduate with average intelligence. The Board concluded that you possessed the requisite skills needed to successfully complete an enlistment. The Board concluded that five NJPs and a civil conviction for drugs, did not constitute honorable service. You failed to learn from your disciplinary experience and your continued misconduct demonstrated a willful disregard for the Navy's drug policy and discipline. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. You have provided neither probative evidence nor a convincing argument in support of your application. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director